

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

REINHARD PASAMANERO AQUINO

Applicant for Registered Nurse License

Respondent.

Case No. 2012-510

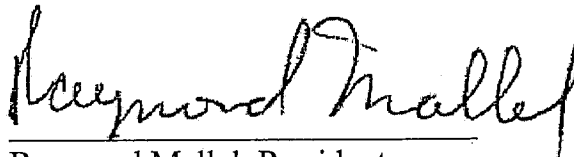
OAH No. 2012051179

DECISION

The attached proposed decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on March 22, 2013.

IT IS SO ORDERED this 22nd day of February 2013.

A handwritten signature in black ink, appearing to read "Raymond Mallel", written over a horizontal line.

Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

REINHARD PASAMANERO AQUINO,

Respondent.

Agency Case No. 2012-510

OAH Case No. 2012051179

PROPOSED DECISION

Daniel Juárez, Administrative Law Judge, Office of Administrative Hearings, heard this matter on October 25, 2012, in Los Angeles, California.

Heather Hua, Deputy Attorney General, represented Louise R. Bailey, M.Ed., R.N. (Complainant), Executive Officer, Board of Registered Nursing (Board).

The offices of Frederick M. Ray, and John D. Bishop, Esq., represented Reinhard Pasamanero Aquino (Respondent).

The parties submitted the matter for decision on October 25, 2012.

STATEMENT OF THE FACTS

Complainant seeks to deny Respondent's application for a registered nurse license because he suffered three criminal convictions between 2002 and 2006, and was consequently disciplined by the Board of Vocational Nursing and Psychiatric Technicians (the LVN Board) in 2008.

Respondent acknowledges his convictions and LVN Board discipline, asserts his successful rehabilitation, and requests that the Board grant his application.

FACTUAL FINDINGS

1. Respondent filed an application for licensure by examination for a registered nurse license on January 24, 2011. Respondent disclosed his three convictions and the LVN Board's discipline on his application. The Board denied his application; Respondent requested a hearing.

2. On or about February 28, 2012, Complainant, acting in her official capacity, filed the Statement of Issues.

3. On June 21, 2002, following a nolo contendere plea, the Los Angeles County Superior Court, in case number 2CR08053, convicted Respondent of violating Penal Code section 653.22 (loitering for prostitution), a misdemeanor. The court suspended imposition of Respondent's sentence and placed him on summary probation for one year.

4. The terms and conditions of Respondent's probation included, among other things, paying approximately \$498 in fines and fees, completing an AIDS education class, and submitting to an HIV blood test.

5. The facts underlying Respondent's conviction are that, on May 2, 2002, Respondent solicited a prostitute.

6. On September 18, 2006, the court expunged Respondent's 2002 conviction, setting aside and vacating the plea and finding of guilt, entering a not guilty plea, and dismissing the complaint, pursuant to Penal Code section 1203.4.

7. On March 11, 2004, following a nolo contendere plea, the Los Angeles County Superior Court, in case number 4HL00219, convicted Respondent of violating Penal Code section 653.22 (loitering for prostitution), a misdemeanor. The court suspended imposition of Respondent's sentence and placed him on summary probation for three years.

8. The terms and conditions of Respondent's probation included, among other things, paying \$216 in fines and fees, performing 15 days of community service, and completing an AIDS education class.

9. The facts underlying Respondent's conviction are that, on January 8, 2004, Respondent solicited a prostitute.

10. On October 21, 2005, the sentencing court terminated Respondent's probation early, but denied Respondent's expungement petition.

11. On October 27, 2005, the court expunged Respondent's 2004 conviction, setting aside and vacating the plea and finding of guilt, entering a not guilty plea, and dismissing the complaint, pursuant to Penal Code section 1203.4.

12. On August 3, 2006, following a nolo contendere plea, the Los Angeles County Superior Court, in case number 6HY01706, convicted Respondent of violating Penal Code section 647, subdivision (b) (soliciting prostitution), a misdemeanor. The court suspended imposition of Respondent's sentence and placed him on summary probation for two years.

13. The terms and conditions of Respondent's probation included, among other things, paying \$1,647 in fines and fees, completing an AIDS education class, and submitting to an HIV blood test.

14. The facts underlying Respondent's conviction are that, on May 26, 2006, Respondent solicited a prostitute.

15. On April 8, 2008, the sentencing court terminated Respondent's probation early and expunged Respondent's 2006 conviction, setting aside and vacating the plea and finding of guilt, entering a not guilty plea, and dismissing the complaint, pursuant to Penal Code section 1203.4.

16. On December 1, 2006, Respondent filed an application for a vocational nurse license with the LVN Board. In approximately February 2008, the LVN Board's Executive Officer filed a statement of issues seeking denial of Respondent's application based on his three convictions (*In the Matter of the Statement of Issues Against Reinhard Pasamanero Aquino*, agency case number VN 2006-1313). Effective December 8, 2008, by stipulated settlement, the LVN Board issued a vocational nurse license to Respondent, revoked the license, and stayed the revocation, placing the license on three years probation with various terms and conditions. The terms and conditions of his vocational nurse license probation included among others, obeying all laws, filing quarterly probation reports, and completing a course related to his criminal violations by the end of the first year of probation.

17. Pursuant to Respondent's petition to modify his probation, heard by the LVN Board on September 8, 2011, effective November 19, 2011, the LVN Board removed its requirement that Respondent work no less than six consecutive months and no less than 20 hours per week during probation.

18. Respondent's probation with the LVN Board completed on December 10, 2011, and his vocational nurse license was fully restored.

19. In 2007, Respondent attended five psychotherapy sessions with Toby Pollack, L.C.S.W., of Mosaic Family Care in Los Angeles. Respondent's participation in these sessions was voluntary and not required by any of his criminal probations. The therapy sessions focused on Respondent's impulse control problems. Respondent credits some of his rehabilitated insights to this therapy.

20. Respondent is currently 32. Respondent takes full responsibility for his actions. He admits his actions were wrong and places the full blame on himself. He explained the specific circumstances surrounding each of his convictions. He regrets his

misconduct. He explained that he had a compulsion for sex. After his last conviction, Respondent understood that the life he was leading was problematic and that he had to change. He explained that he was having relationship problems and high stress and sought sex to deal with his problems. Through his therapy, he learned and believes that sex must be valued and women must be respected; and that by soliciting prostitutes, he was contributing to the greater societal problem of prostitution. Respondent believes prostitution leads to the oppression of women. Respondent has worked to better his self-image, self-confidence, and self-worth. By doing so, he has concluded that seeking prostitutes cannot help him meet his emotional needs and demeans women. He now deals with his stress in a positive manner. He exercises regularly and has maintained a support system that includes his family, his girlfriend, and new friends. Respondent no longer associates with the individuals with whom he associated when he sought prostitutes.

21. Respondent is currently working at a chiropractic office in Glendale, California, for Dale Ellwein, D.C. Respondent has worked for Ellwein for over one year. Respondent enjoys his employment. There was no evidence of any workplace problems.

22. Respondent is involved in his church, Precious Blood Catholic Church, in Los Angeles. Respondent lends his time and attention to the church, including volunteering for the St. Vincent's Meals-On-Wheels program.

23. Respondent's father, Robert Aquino, and Respondent's sister, Lyra Aquino (a licensed registered nurse) each testified. They described Respondent as helpful, trustworthy, and responsible. Respondent's sister explained that Respondent helped her deal with the stress of nursing school while she was a student. She described the years between 2002 and 2006 as difficult years for Respondent.

24. Respondent enjoys nursing. He would like to work as a licensed registered nurse in an emergency room setting.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2761 provides in part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:

[¶] ... [¶]

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate . . . by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

[¶] . . . [¶]

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

2. Business and Professions Code section 480 states in part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

[¶] . . . [¶]

(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

3. California Code of Regulations, title 16, section 1444, states in part:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

4. Respondent's three crimes demonstrate a disregard for the law and a disregard for the health, safety, and welfare of the public. As such, they evidence the present and

potential unfitness of a licensed registered nurse to perform the licensed functions in a manner consistent with the public health, safety, and welfare. Respondent's three crimes are therefore substantially related to a registered nurse's qualifications, functions, and duties. (Cal. Code Regs., tit. 16, § 1444.)

5. Cause exists to deny Respondent's registered nurse application, pursuant to Business and Professions Code sections 2761, subdivision (f), and 480, subdivision (a)(1), for his three misdemeanor convictions, as set forth in Factual Findings 1-15, and Legal Conclusions 1, 3, and 4.

6. Cause exists to deny Respondent's registered nurse application, pursuant to Business and Professions Code sections 2761, subdivision (a)(4), and 480, subdivisions (a)(3)(A) and (a)(3)(B), for suffering disciplinary action by the LVN Board in 2008, as set forth in Factual Findings 1-18, and Legal Conclusions 1-4.

7. Cause exists to deny Respondent's registered nurse application, pursuant to Business and Professions Code section 480, subdivisions (a)(3)(A) and (a)(3)(B), for acts which if done by a licentiate would constitute grounds for discipline, as set forth in Factual Findings 1-18, and Legal Conclusions 2-6.

8. Despite the cause established *ante*, Respondent's rehabilitative evidence, when assessed through the Board's regulatory rehabilitative criteria, established sufficient rehabilitation to consider an order less severe than outright denial of his registered nurse application.

9. California Code of Regulations, title 16, section 1445, states in part:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

- (5) Evidence, if any, of rehabilitation submitted by the applicant.

10. Respondent's crimes of soliciting prostitutes are moderately severe, more so because he committed the same crime three times over four years, despite prior convictions. (Cal. Code Regs., tit. 16, § 1445, subd. (1).) However, since 2006, he has not suffered additional criminal convictions. (Cal. Code Regs., tit. 16, § 1445, subd. (2).) It has been six years since he committed his last offense; significant time has passed. (Cal. Code Regs., tit. 16, § 1445, subd. (3).) Respondent has complied with all of the terms of his criminal probations and the sentencing court has expunged each conviction. (Cal. Code Regs., tit. 16, § 1445, subds. (4) & (5).) Respondent's license discipline from the LVN Board is noted; but further noted is that, after considering the three convictions, the LVN Board nonetheless saw it fit, and sufficiently protective of the public welfare, to issue Respondent a probationary vocational nurse license. Further, Respondent complied with that probation and now holds a fully restored vocational nurse license. (Cal. Code Regs., tit. 16, § 1445, subd. (5).) Respondent has obtained gainful employment; he provides community service through his church, and his family holds him in high regard. (*Ibid.*) Saliently, Respondent took responsibility for his misconduct and took affirmative action, like enrolling in psychotherapy, to address the reasons why he was seeking prostitutes in the past. (*Ibid.*) He appears to have changed for the better. (*Ibid.*) Recidivism appears unlikely. Nevertheless, it is still prudent to retain some oversight over Respondent to ensure that his rehabilitation is complete. Therefore, a probationary period of three years would appropriately protect the public while allowing Respondent to practice as a registered nurse.

ORDER

The application of Respondent Reinhard Pasamanero Aquino's licensure is hereby granted and a license shall be issued to Respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three years on the following conditions:

SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS

Respondent shall obey all federal, state and local laws. A full and detailed account of all violations of law shall be reported by Respondent to the Board in writing within 72 hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall

submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the Decision, unless previously submitted as part of the licensure application process.

2. COMPLY WITH THE BOARD'S PROBATION PROGRAM

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. REPORT IN PERSON

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation timeperiod. Respondent's probation is tolled, if and when he resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where he has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing license during the term of probation.

5. SUBMIT WRITTEN REPORTS

Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this Decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

6. FUNCTION AS A REGISTERED NURSE

Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for six consecutive months or as determined by the Board.

For purposes of compliance with this section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for six consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one-year extension, all original conditions of probation shall apply.

7. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this Decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within 72 hours after he obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within 72 hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. SUPERVISION

Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless

alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum: The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate: The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half of the hours Respondent works.
- (c) Minimum: The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.
- (d) Home Health Care: If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each workday. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

9. EMPLOYMENT LIMITATIONS

Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified, and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. COMPLETE A NURSING COURSE(S)

Respondent, at his own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. VIOLATION OF PROBATION

If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (denial) of Respondent's application.

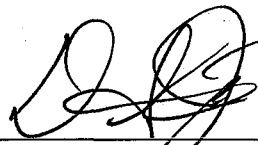
If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. LICENSE SURRENDER

During Respondent's term of probation, if he ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender his license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision: Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness.

Dated: November 14, 2012

A handwritten signature in black ink, appearing to read 'D. Juarez', is written over a horizontal line.

DANIEL JUAREZ
Administrative Law Judge
Office of Administrative Hearings

Exhibit A

Statement of Issues Case No. 2012-510

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

Case No. **2012-510**

12 **REINHARD PASAMANERO AQUINO**
13 154 S. Occidental Blvd.
14 Los Angeles, CA 90057

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about January 24, 2011, the Board of Registered Nursing (Board) received an
23 application for Licensure by Examination as a Registered Nurse License from Reinhard
24 Pasamanero Aquino (Respondent). On or about January 11, 2011, Respondent certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on or about May 2, 2011.

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1 of the business or profession for which the licensee's license was issued.

2 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
3 conviction following a plea of nolo contendere. Any action that a board is permitted to take
4 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
5 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
6 made suspending the imposition of sentence, irrespective of a subsequent order under the
7 provisions of Section 1203.4 of the Penal Code."

8 6. Section 2736 provides, in pertinent part, that the Board may deny a license when it
9 finds that the applicant has committed any acts constituting grounds for denial of licensure under
10 section 480 of that Code.

11 7. Section 2761 states, in pertinent part:

12 "The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

15

16 "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
17 against a health care professional license or certificate by another state or territory of the United
18 States, by any other government agency, or by another California health care professional
19 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
20 action.

21

22 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
23 functions, and duties of a registered nurse, in which event the record of the conviction shall be
24 conclusive evidence thereof."

25 **REGULATORY PROVISIONS**

26 8. California Code of Regulations, title 16, section 1444 states, in pertinent part:

27 "A conviction or act shall be considered to be substantially related to the qualifications,
28 functions or duties of a registered nurse if to a substantial degree it evidences the present or

1 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
2 safety, or welfare."

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Convictions of Substantially Related Crimes)**

5 9. Respondent's application is subject to denial under sections 2761, subdivision (f) and
6 480, subdivision (a)(1), in that Respondent was convicted of crimes as follows:

7 a. On or about August 3, 2006, after pleading nolo contendere, Respondent was
8 convicted of one misdemeanor count of violating Penal Code section 647, subdivision (b)
9 [disorderly conduct: prostitution] in the criminal proceeding entitled *The People of the State of*
10 *California v. Reinhard Aquino* (Super. Ct. Los Angeles County, 2006, No. 6HY01706). The
11 Court placed Respondent on 24 months probation, with terms and conditions. The circumstances
12 surrounding the conviction are that on or about May 26, 2006, Respondent solicited or agreed to
13 engage in acts of prostitution.

14 b. On or about March 11, 2004, after pleading nolo contendere, Respondent was
15 convicted of one misdemeanor count of violating Penal Code section 653.22, subdivision (a)
16 [loitering with intent to prostitute] in the criminal proceeding entitled *The People of the State of*
17 *California v. Reinhard Aquino* (Super. Ct. Los Angeles County, 2004, No. 4HL00219). The
18 Court placed Respondent on 36 months probation, with terms and conditions. The circumstances
19 surrounding the conviction are that on or about January 8, 2004, Respondent loitered in a public
20 place with the intent to commit prostitution.

21 c. On or about June 21, 2002, after pleading nolo contendere, Respondent was convicted
22 of one misdemeanor count of violating Penal Code section 653.22 [loitering with intent to
23 prostitute] in the criminal proceeding entitled *The People of the State of California v. Reinhard*
24 *Pasamander Aquino* (Super. Ct. Los Angeles County, 2002, No. 2CR08053). The Court
25 sentenced Respondent to serve 5 days in Los Angeles County Jail and placed him on 12 months
26 probation, with terms and conditions. The circumstances surrounding the conviction are that on
27 or about May 2, 2002, Respondent loitered in a public place with the intent to commit
28 prostitution.

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Disciplinary Action by Board of Vocational Nursing and Psychiatric Technicians)**

3 10. Respondent's application is subject to denial under sections 2761, subdivision (a)(4)
4 and 480, subdivision (a)(3)(A) and (a)(3)(B), in that in a disciplinary action entitled, "In the
5 Matter of the Statement of Issues Against: Reinhard Pasamanero Aquino", Case No. VN 2006-
6 1313, the Board of Vocational Nursing and Psychiatric Technicians issued a decision, effective
7 December 8, 2008, in which Respondent was issued a Vocational Nurse License, but it was
8 immediately revoked. The revocation was stayed and Respondent was placed on three years
9 probation, with terms and conditions. The causes for discipline underlying the statement of issues
10 are as alleged above in paragraph 9, subparagraphs (a) through (c), inclusive, as though set forth
11 fully.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Acts Warranting Denial of Licensure)**

14 11. Respondent's application is subject to denial under section 480, subdivisions (a)(3)(A)
15 and (a)(3)(B), in that Respondent committed acts which if done by a licentiate of the business and
16 profession in question, would be grounds for suspension or revocation of his license. Respondent
17 was convicted of a crime substantially related to the qualifications, functions, or duties of a
18 registered nurse which to a substantial degree evidences his present or potential unfitness to
19 perform the functions authorized by his license in a manner consistent with the public health,
20 safety, or welfare, in violation of sections 2761, subdivision (f) and 490, in conjunction with
21 California Code of Regulations, title 16, section 1444. Complainant refers to, and by this
22 reference incorporates, the allegations set forth above in paragraph 9, as though set forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying Respondent Reinhard Pasamanero Aquino's application for a Registered Nurse License; and
2. Taking such other and further action as deemed necessary and proper.

DATED:

February 28, 2012

Stacie Ben

for **LOUISE R. BAILEY, M.ED., RN**
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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